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Fifty-first session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 February 1995, at 3 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

later: Mr. MEJIA SOLIS (Nicaragua)
(Vice-Chairman)

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The meeting was called to order at 3.10 p.m.

STATEMENT BY MRS. OGATA, UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

1. Mrs. OGATA (United Nations High Commissioner for Refugees (UNHCR)) said that, since her last address to the Commission, the international human rights regime had witnessed important developments in two major areas. The first was the redoubling of international efforts to establish a more effective operational United Nations human rights capacity. Field operations had been intensified in several areas, including the former Yugoslavia, Rwanda, Burundi and Guatemala. The second was the establishment of international tribunals to prosecute the perpetrators of grave human rights and humanitarian law violations. Both trends could not but be welcomed. The human rights regime must be translated into a visible and effective field presence, while the documentation of horrendous crimes must be backed up by effective redress to establish proper accountability and to remove the myth of impunity.

2. Those developments - and, above all, the environment which had led to them - challenged all the members of the international community to review the framework and methods of human rights efforts. She therefore thought it useful to outline the human rights linkages of the humanitarian and protection action undertaken by her Office.

3. Human rights concerns were central to both the cause of refugee movements and the solution of refugee problems. Refugee law and the international instruments for refugee protection were fundamentally based on human rights as well as on humanitarian considerations. Asylum and non-refoulement stemmed from the basic right of all individuals to seek and enjoy asylum from persecution, as stated in the Universal Declaration of Human Rights. The right to enjoy the protection of one's own country, and to return freely to it, was also fundamental to the Declaration.

4. Her Office's action on behalf of refugees, returnees and, increasingly, internally displaced persons thus made its own contribution to the advancement of human rights. It was involved in monitoring the basic rights of refugees in countries of asylum and of returnees in countries of origin; protection and essential relief was often provided for displaced victims of conflicts, even while those conflicts continued to rage around them.

5. The protection of victims was not just a question of monitoring a set of legal standards; it was a daily and complex activity aimed at ensuring personal security and urgent material assistance for uprooted civilians - operational activities - but also respect for basic economic and social rights - the humanitarian aspect.

6. The operational aspect meant that UNHCR officers in the field were expected not only to observe human rights violations and report them but also to act on the information by seeking remedial action from the authorities concerned. That was currently the case in Tajikistan, where the well-being of returnees was being monitored, and in the former Yugoslavia, where UNHCR staff regularly visited areas where identifiable minorities might be at risk and protested against acts of ethnic cleansing at both the local and higher levels

of authority. When such attempts failed - as, regrettably, was too often the case - it assisted the victims in their efforts to seek safety elsewhere.

7. In refugee camps, particularly in Africa, the primary purpose of UNHCR's presence was often to identify potential threats to the personal security of refugees and to propose measures of prevention and redress. That had been a major preoccupation in the Rwandese camps in Zaire, where violence and general insecurity had not only cost the lives of a number of refugees, but had also been a major impediment to the promotion of orderly repatriation to Rwanda. Without in any way supplanting the prime responsibility of the host authorities, the United Nations and her Office had undertaken a number of measures to deal with the situation. UNHCR would therefore, for the first time, be deploying a number of military and police advisers to work directly in support of the Zairian authorities in an effort to bring that problem under control.

8. Despite such measures, her Office's activities remained strictly humanitarian, driven by the needs of the victims and measured by the yardstick of impartiality. Such impartiality was essential, since it was the key which gave access to those in need of protection and assistance. In the broad arena of providing security to populations uprooted by human rights violations or conflict, humanitarian action and human rights mechanisms remained separate but were mutually supportive.

9. The appalling mass human rights violations and bloodshed in Rwanda had brought into sharp focus almost all the facets of the complex interaction between human rights and humanitarian efforts. Rwanda had demonstrated, in particular, the vital importance of effective human rights monitoring in post-conflict situations, as an integral part of the efforts to establish the conditions enabling uprooted populations to return home in safety and dignity. In that connection, she wished to pay tribute to the efforts of the High Commissioner for Human Rights and the Centre for Human Rights to deploy human rights monitors in Rwanda. Those monitors must be provided with the necessary support and resources to fulfil their difficult missions. Her own Office had fortunately been able to provide some logistical and operational support for the initial phase of those activities. The success of the operation would help prevent further population movements and would enable repatriation to take place quickly.

10. At the same time, the United Nations must guard against any confusion of mandates and responsibilities. It was essential that a clear distinction be made between two sets of human rights functions: rebuilding confidence and creating conditions conducive to reconciliation and return; and the investigation and prosecution of violations of human rights.

11. UNHCR was not and should not be actively involved in investigatory activities on the ground. While its mandate clearly excluded those guilty of war crimes and crimes against humanity from protection as refugees, the safety of those for whom it was responsible as well as that of humanitarian personnel could be jeopardized if its staff were identified with the investigatory side of the human rights effort. Humanitarian action must remain broadly non-judgmental; human rights efforts required determination of legal responsibility.

12. In that connection, she welcomed the establishment of the international tribunals, which would serve as an effective international mechanism to bring to justice all those responsible for grave and massive human rights violations of the kind that had taken place in Rwanda and in the former Yugoslavia. At the same time, the international community must give much clearer signals of its will and determination to make those mechanisms truly effective. It was not simply a matter of having justice done but of ensuring that justice was genuinely restored in the countries concerned. The rehabilitation of the judicial and civilian police systems in Rwanda, as in other war-torn countries, must be an integral part of the international response to such crises.

13. The voluntary return of refugees must necessarily be accompanied by longer-term efforts at reconciliation and restoration of the rule of law, including institution-building and rehabilitation in the area of human rights. Such efforts were beyond the mandate of UNHCR, but failure to make them might well render its humanitarian efforts ineffective.

14. An approach which acknowledged the complementary but distinct nature of humanitarian and human rights mandates could help to identify and address persisting deficiencies in the international protection regime. Persons fleeing from persecution or conflict received international protection only when they crossed recognized borders. However, the inadequate protection afforded to internally displaced persons continued to be a matter of concern.

15. The situation of displaced persons in Chechnya was a case in point. UNHCR had intervened swiftly with emergency relief at the request of the Russian authorities and the Secretary-General and, as it carried out assistance programmes, was naturally fully conscious of its broader protection responsibilities. It had supported the work of the Representative of the Secretary-General, Mr. Francis Deng, in his efforts to delineate the guiding principles for the protection of internally displaced populations. The early elaboration by the Commission of universal principles in that regard would be welcome.

16. Stateless persons was another group in need of international protection, for whom UNHCR had a special responsibility. Under the 1961 Convention on the Reduction of Statelessness, it had been designated as an intermediary between States and stateless persons. Most recently, it had been requested by its Executive Committee to place the matter of statelessness on its 1995 agenda. It would be exploring promotional and prevention activities to which it might contribute, in collaboration with the States concerned. There was a clear link between the loss or denial of national protection and the loss or denial of nationality. In addition, the prevention and reduction of statelessness was an important aspect of securing minority rights.

17. In 1994, her Office had been increasingly involved in the work of the human rights treaty bodies and other United Nations human rights mechanisms through information sharing, exchange of views and promotion of human rights standards which augmented the protection and assistance provided to victims of forced displacement. She noted with appreciation the important contributions of such bodies and rapporteurs to the report of the Secretary-General on human rights and mass exodus.

18. Another tangible result of the cooperation was that, following her address to the Commission in 1993, in which she had drawn attention to the "right to remain" and the "right to return", the Sub-Commission had adopted a resolution on the "right to freedom of movement", urging Governments to stop all practices which might lead to forced displacement, population transfer and ethnic cleansing. She trusted that the Commission would take appropriate measures to follow up that resolution.

19. Many other items on the Commission's agenda were of direct interest to UNHCR. She confirmed her support for and active involvement in the issues of children's rights and violence against women (in which connection she expressed her appreciation of the report of the Special Rapporteur on violence against women (E/CN.4/1995/42)). UNHCR was finalizing its own guidelines on the prevention of and response to sexual violence against refugees. Torture, racism and the deprivation of economic, social and cultural rights were also of constant concern to her Office. The development of international respect for human rights had to be addressed at different levels. Education and enhancing public awareness were of paramount importance.

20. The need to safeguard basic human rights was increasingly demonstrated by the dramatic increase in the magnitude and intensity of forced displacements throughout the world. A more effective international human rights machinery was essential to strengthen early warning, monitoring, investigation, redress and post-conflict rehabilitation. At the same time the role of humanitarian action was unique and irreplaceable; collaborative efforts in that regard must be based on full conceptual and operational clarity, while the essential responsibility of States should never be supplanted, but only supported.

21. Even in the face of vast humanitarian and human rights challenges, she was convinced that the combined efforts of States, the United Nations and its agencies, and intergovernmental and non-governmental agencies would enable the international community to make progress on the issues confronting it. The deliberations and decisions of the Commission were an important part of that process and she wished it every success at its current session.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT (item 7 of the provisional agenda) (continued) (E/CN.4/1994/25 and 101; E/CN.4/Sub.2/1994/9 and Corr.1; E/1994/23; E/1994/L.23; E/C.12/1994/12)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (item 8 of the provisional agenda) (continued) (E/CN.4/1995/11, 26, 27 and 114; A/49/653)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (item 17 of the provisional agenda) (continued) (E/CN.4/1995/79 and Corr.1, 80, 121 and 122)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (item 18 of the provisional agenda) (continued) (E/CN.4/1995/81; A/49/537)

22. Mr. JIT (India) said that General Assembly resolution 41/128, containing the Declaration on the Right to Development, reflected the resolve of the Member States to make the human being the central object of development. It recognized that civil, political, economic, social and cultural rights were indivisible and interdependent; and the authors of the Declaration had drawn up a comprehensive instrument to realize those aspirations. All States were required to ensure equality of opportunity and access to basic resources and services. Given the difficulty experienced by developing countries in providing such basic needs, all States were enjoined to cooperate in formulating international development policies to facilitate the full realization of the right to development. The question was how best to advance the issue.

23. He was glad to note that the Working Group on the Right to Development had gone about its work with diligence. The Commission had welcomed the recommendations of the Working Group's first session, which included disseminating the provisions of the Declaration as widely as possible, promoting the Declaration by making it the centrepiece of various important international meetings, encouraging popular participation and requesting that the necessary human and financial resources should be provided to enable the Working Group to carry out its work satisfactorily.

24. After holding wide-ranging consultations with various States and bodies, the Working Group had identified one major obstacle as being the resource constraint. The funds available at the national level were inadequate and transfers from other sources were also insufficient. Even the meagre resources available were increasingly redeployed to meet emergency needs. More cooperation was needed from both Member States and the international financial institutions.

25. There was a clear case for a substantial expansion of official development assistance (ODA), yet even the target of 0.7 per cent of the gross national product of developed countries was not being met; ODA currently amounted to only 0.35 per cent of the combined gross national product of the countries members of the Organisation for Economic Cooperation and Development. Indeed, ODA was declining, and lending from the World Bank had not increased in real terms since the 1980s.

26. A second significant factor emerging from the Working Group's report was that the freedom of action enjoyed by national Governments was becoming increasingly restricted as a result of growing globalization. Loans from international institutions carried conditions which might adversely affect the poor, at least in the short run, and structural adjustment programmes did not provide a solution that could be uniformly applied to the problems facing different countries. Greater attention had therefore to be paid to the question of safety-nets, retraining and job location for alternative employment. Globalization also meant that the macroeconomic policies of a few powerful nations could adversely affect the economic environment of other countries. Consideration should be given to how such effects could be

mitigated. The International Monetary Fund could make a greater contribution, and action should be taken to impart greater stability to exchange rates.

27. Although the empowerment of the poor, minorities and women would be helpful, it had to be remembered that democracy was only a means to an end. If it was to have any meaning, it must meet the vast needs of the masses in the way of food, shelter, health, literacy and employment. The participation of the people in the sustained exploitation of resources was of paramount importance. That fact was recognized in India and was provided for by democratic participation at the village, State and federal levels. Each Member of Parliament was also allocated a sum of money to respond promptly to the requirements of small communities.

28. Another issue that could not be overlooked was that of the participation of developing countries in world trade. Global markets did not operate freely, a fact which cost developing countries $500 billion a year, or 10 times what they received in foreign assistance. Greater market access should be given to such exports from developing countries as textiles, clothing and footwear, which were labour-intensive. Moves towards new forms of protectionism should also be stopped.

29. At its second session the Working Group had proposed the establishment of economic standards to measure progress with regard to the International Covenant on Economic, Social and Cultural Rights; it had also suggested the need for accountability. Those were proposals that should be considered carefully and cautiously. It had also stressed the importance of peace, concluding that the use of force was an obstacle to the realization of the Declaration. However, rather than dwelling on matters that were self-evident, the Working Group should focus primarily on economic issues and come up with specific recommendations to help promote the right to development.

30. The Declaration had raised great hopes in the developing world and he believed that the whole world would stand to gain greatly if the right to development was implemented sincerely and speedily through shared responsibility in an increasingly interdependent world. He was confident that the Working Group would contribute to the realization of that objective.

31. Mr. HASHIM (Bangladesh) said that his Government considered the right to development to be an integral part of the fundamental rights of humankind. It believed that a comprehensive implementation of the recommendations set out in the Vienna Declaration and Programme of Action would help the cause of human rights and establish a viable global humanitarian order.

32. In Bangladesh's strategy for development, special emphasis was put on improving the conditions of the more disadvantaged and vulnerable sections of the population. For example, the Dal Bhat programme was designed to provide basic nutrition for the poor masses. Primary health care was being expanded and 74 per cent of children had already been immunized against 6 major killer diseases. Priority had also been given to the integration of women into the development process. Special incentives and facilities had been set up to educate women, although resource constraints affected the implementation of the various programmes.

33. It was a formidable challenge for developing countries to keep pace with the rising expectations of their peoples; poverty, disease, illiteracy, population explosion, debt and environmental degradation, resulting from underdevelopment, posed serious impediments to the universal realization of human rights. The immediate alleviation and eventual elimination of poverty should remain a high priority within the human rights paradigm.

34. It was a matter for pride that, despite their problems, the developing nations were increasingly shouldering their responsibility for wide-ranging human rights. He hoped that other countries appreciated their serious difficulties and would supplement their efforts by taking positive initiatives and not criticizing minor lapses. The adoption of pragmatic domestic policies and adequate external support was vital for the full implementation of the recommendations in the Vienna Declaration and Programme of Action. The right to development could be achieved through a synchronization of national efforts with international cooperation. With that kind of collective responsibility, the international community could bolster the endeavours of the developing countries by providing assistance for resource building on favourable terms, environmentally sound technology, market access facilities, debt relief and the relaxation of aid conditionalities.

35. In view of the inextricable link between human rights and development, the High Commissioner for Human Rights should give due priority to monitoring and promoting the implementation of the Declaration on the Right to Development. He welcomed, therefore, the wide-ranging initiatives taken by the High Commissioner, as reflected in the Secretary-General's report (E/CN.4/1995/26). He also welcomed the report of the Working Group on the Right to Development on its third session (E/CN.4/1995/27), which contained a number of important observations. The Working Group should be extended all possible support to fulfil its mandate. Lastly, he hoped that the promotion of the right to development would be adequately reflected in the declarations and programmes of action to be adopted by the World Summit for Social Development and the Fourth World Conference on Women, which were to be held shortly at Copenhagen and Beijing respectively.

36. Mr. Mejía Solis (Nicaragua), Vice-Chairman, took the Chair.

37. Mr. ELKARIB (Sudan) said that economic and social development were indivisible. Human rights and the rights of the community should be considered as complementary. Both the material and the spiritual needs of peoples, including their cultural heritage and values, must be taken into account.

38. The current international economic order was an unjust one; it was based on tyranny and inequality and served only to make the poor poorer. According to the Declaration on the Right to Development, countries should cooperate to ensure development and eliminate obstacles to it. Yet, in 1994, one fifth of the population of the developing world suffered from hunger; one quarter had no access to basic necessities; and one third was living in extreme poverty. The international community must thus make greater efforts to eliminate the indebtedness of the developing countries and to channel resources to those countries to help them increase their productive capacities. Unfortunately,

donor countries had recently been linking assistance to more stringent conditions, which was leading to negative growth rates in most developing countries.

39. In general, developing countries were faced with poor living conditions, poverty, natural disasters and lack of infrastructure. Economic development of those countries was therefore needed to enable their populations to enjoy other human rights. The view that human rights situations must be improved at all costs was a philosophical luxury out of touch with day-to-day reality. At the same time, the right to development should not be emphasized at the expense of other human rights.

40. The development process could be genuinely constructive only if the measures adopted were based on bilateral and multilateral cooperation. Some Governments were very eloquent about their defence of human rights and democracy; however, their assertions would be credible only if backed up by assistance to the countries of the South, helping them to develop properly, rather than taking advantage of their cheap resources.

41. The right to development was an inalienable and fundamental right by virtue of which all human beings were entitled to participate in economic, cultural and social development. Development efforts needed to be supported by policies based on equitable international and political relations rather than on a double standard. A favourable economic climate was also necessary to the realization of the right to development.

42. In that connection, his delegation appreciated the efforts of the Working Group on the Right to Development, which had highlighted the importance of such factors as the imbalance between economic and social development; structural adjustment programmes; and the marginalization of economic rights within the United Nations system. It also appreciated the commitment to conduct high-level consultations for the purpose of elaborating measures to resolve the problem of the indebtedness of the developing countries.

43. His delegation agreed with the conclusions of the Working Group, including its high hopes for the World Summit on Social Development. However, it would have preferred some mention of the responsibilities of the donor countries to provide multilateral or bilateral aid as well as of the responsibility of the international community as a whole.

44. He hoped that the Commission on Human Rights would be able to make further progress in promoting human rights in an objective and impartial manner.

45. Mr. PIRZADA (Pakistan) said that, since the adoption of the Declaration on the Right to Development in 1986, there had been an increased awareness of the need to implement that right on a comprehensive and non-discriminatory basis. Yet, large pockets of abject poverty and social underdevelopment still existed and the gap between theory and reality was still widening.

46. The 1993 Vienna Declaration had reaffirmed the right to development as a universal and inalienable right and an integral part of human rights and had

called on States to cooperate in securing development and eliminating the obstacles to it. It had, in particular, stressed the need for the adoption of effective development policies at the national level; the establishment of equitable economic relations and a favourable economic environment at the international level; and the alleviation of poverty.

47. Human rights were indivisible and constituted a whole. It was not possible for a group to achieve political, social and cultural rights when it faced economic and social deprivation. Conversely, economic development could not be sustained unless it was reinforced by political, social and cultural rights. The right to development was a way of making all human rights a reality.

48. In the case of peoples living under alien domination or foreign occupation, it was only after their right to self-determination had been realized that they could begin to implement the right to development. The right to development was, in the contemporary world, also closely linked to international peace and stability.

49. The process of development required action at both the national and international levels. At the national level, citizens had to be induced to become vehicles of progress not by means of centralized control but rather through increased autonomy and involvement. In his own country, the Government had instituted a partnership between the public and private sectors and was endeavouring to decentralize administrative and economic power.

50. Efforts at the national level could be successful only in the context of an equitable international setting, responsive to the concerns of the developing countries, and with the active and generous assistance of the developed countries and the international financial institutions. The process of development should be regarded as a joint undertaking shared by developed and developing countries alike.

51. There was a widening gap between the countries of the North and the South. The current international environment was characterized by a number of elements that were hindering development. Tariffs and protectionist practices were blocking the free flow of goods and services between countries and regions. No steps were being taken to remove the essentially political causes of tensions and conflicts. Countries advocating reductions in military spending were, ironically, the biggest arms exporters. Barriers were being erected to block the free movement of peoples and deny developing countries access to critical knowledge in the fields of science and technology.

52. The most serious obstacle to the right to development, however, was the absolute poverty in many developing countries, which imposed a large burden on the State. Efforts to combat severe poverty were hampered by a lack of financial resources and the absence of a clear-cut and feasible strategy. Among the most effective ways of implementing the right to development would be to help developing countries to formulate effective policies and projects for the eradication of poverty and to mobilize resources to implement those policies within a reasonable period of time. It might, perhaps, be possible to develop a global plan to eradicate poverty in the developing countries.

53. Foreign debt, debt servicing, interest payments and conditionality also impeded the realization of the right to development. Unilateral imposition of conditions on debtor countries was in violation of the Charter of the United Nations and the principles of international law. At the international level, there was a net transfer of financial resources from the developing to the developed countries which had to be rectified so that a global economic equilibrium could be restored.

54. In many cases, the reform and restructuring programmes undertaken by developing countries, which they were obliged to institute as a condition of receiving foreign assistance, had given rise to social and political upheavals. The strict application of the laws of market economy had adversely affected the poorest sectors. Compensatory measures were needed to protect the weaker and more vulnerable groups in the developing countries from the effects of structural adjustment during the period of transition.

55. It was also essential to review and strengthen the role of the international financial institutions. They should become more receptive to the needs of the developing countries; their ability to provide crucial financial resources should also be enhanced.

56. The developing countries must, of course, make a political commitment to development, particularly in terms of controlling population growth. Nevertheless, the realization of the right to self-determination would depend in large measure on the willingness of the developed countries to consider the developing countries as their partners in shaping a common future.

57. Mr. RAVALOSON (Observer for Madagascar) said that, given the current international economic situation and the lack of international economic cooperation, the implementation of the right to development was Utopian in most developing countries and, in particular, in the least developed among them. Despite the hopes it had aroused, the end of the cold war had not been accompanied by a reallocation of economic, financial and technological resources in the sense of the establishment of a new international economic order, the only international framework conducive to respect for and enjoyment of human rights. On the contrary, cynicism and inward-looking policies adopted on the pretext of budgetary constraints had become the order of the day. It was absolutely necessary to make up the shortfall in economic cooperation if the right to development and the economic, social and cultural rights enshrined in the Universal Declaration of Human Rights were to be more than just wishful thinking.

58. International cooperation, however, did not dispense each developing country from its obligation to mobilize at the domestic level. Such internal adjustment efforts, which were undertaken at great risk by many developing countries, should nevertheless be acknowledged and supported by the international community. Despite their fragile economies, certain developing countries had applied their own policies for the defence of human rights and the promotion of the right to development. Such countries should receive greater assistance from the international community.

59. Indeed, not only should such efforts be considered an integral part of the conditionalities for assistance but the right to development should also

be incorporated into the lending policies of the international financial institutions. Given the burden imposed by foreign debt on the implementation of sustainable development policies, new approaches should be attempted to resolve the debt crisis and to promote new financial flows towards the developing countries. In that connection, his delegation supported the recommendation of the Working Group on the Right to Development that it should be authorized to hold two sessions in 1995.

60. Madagascar had shown its commitment to the defence of human rights by its adoption two years previously, following a peaceful process of democratization, of a Constitution establishing a State subject to the rule of law and installing democratically-elected and controlled institutions. Support from the international community was, however, sorely needed, particularly assistance from the United Nations and its specialized agencies, so that human rights and the right to development would not remain unprotected owing to poverty and a lack of governmental resources.

61. Mrs. ANDREEVSKA (Observer for the Former Yugoslav Republic of Macedonia) said that, although the Universal Declaration of Human Rights guaranteed the enjoyment of economic, social and cultural rights, the practical implementation of those rights left much to be desired. In the developing countries, that situation was partly due to insufficient economic development. Even in developed societies, however, an increasing number of people were living in extreme poverty and were thus deprived of their economic, social, cultural and even political rights.

62. The prevailing opinion was that only civil and political rights could be legally defined and guaranteed independently of economic factors. Another school of thought held, however, that the State must guarantee the enjoyment of economic, social and cultural rights in order to protect civil and political rights. The results of United Nations activities in that field, as compared with those devoted to civil and political rights, had been rather modest. Nevertheless, one important achievement was the Declaration of the United Nations Conference on the Human Environment, held at Stockholm in 1972, that the right to adequate living conditions was a basic human right. The Commission on Human Rights had also focused on a healthy environment and peace as fundamental aims to which the international community should aspire.

63. Her Government took the view that man was the subject of development but that he also had a duty to the community in which alone the free and full development of his personality was possible. It had adopted all necessary measures at the national level to implement the right to development and to provide equal access to basic services, food, housing, employment and an equitable division of income. Unfortunately, however, those efforts were adversely affected by the United Nations sanctions against Serbia and Montenegro and by the economic blockade imposed by Greece, which was causing enormous damage to the country's economy and thus reducing its ability to implement human rights.

64. There was also a danger that social tensions might explode and threaten peace and stability in Macedonia and, consequently, in the Balkans. It was for those reasons that her Government supported the full observance of all

international treaties by States which had assumed such commitments and the resolution of all misunderstandings among States by negotiation and in accordance with international law.

65. The 1993 Vienna Declaration and Programme of Action had emphasized the right to development. In that connection, developing countries in transition, which were burdened with enormous economic difficulties, had a right to expect more substantial assistance from the developed countries, since the solution to those problems was directly linked to the implementation of the right to development.

66. Mr. ZUZUL (Observer for Croatia) said that, on gaining its independence, Croatia had notified the competent bodies of its succession to all the international human rights treaties to which the former Socialist Federal Republic of Yugoslavia had been a party. It was currently engaged in the process of ratifying the First and Second Optional Protocols to the International Covenant on Civil and Political Rights and of recognizing the competence of the Human Rights Committee to receive communications, pursuant to article 41 of the Covenant. The task of promoting human rights was rendered more complex by the difficult circumstances of the occupation of significant parts of its national territory and the need to establish the necessary expert bodies and departments within ministries to deal with human rights issues. His Government wished to place on record its appreciation to those institutions, including the Centre for Human Rights, which had provided advice, materials and fellowships.

67. The Secretary-General's report on the succession of States in respect of international human rights treaties (E/CN.4/1995/80) contained the positive response by a number of successor States to the requests contained in Commission resolutions 1993/23 and 1994/16 for successor States to confirm to the appropriate depositaries that they continued to be bound by obligations under the relevant international human rights treaties. That document, however, listed "Yugoslavia" as being a party to international human rights treaties of which the United Nations was the depositary, with dates of accession prior to 1991. In the considered opinion of his Government, that approach was politically wrong and legally unacceptable. Its position was set forth in a letter to the Secretary-General (E/CN.4/1995/121).

68. Within the framework of the overall peace negotiations, the Conference on the Former Yugoslavia had established an Arbitration Commission and a special Working Group, to facilitate the search for solutions to the succession problems of States that had emerged after the disintegration of the former Socialist Federal Republic of Yugoslavia. The only impediment to the successful conclusion of the Group's work lay in the extremely uncooperative approach adopted by the delegation of the Federal Republic of Yugoslavia (Serbia and Montenegro) which considered itself the sole and automatic successor to the former Socialist Federal Republic of Yugoslavia, despite the unequivocal Opinions of the Arbitration Commission.

69. The relevant resolutions of the Security Council and the General Assembly, the Opinions of the Arbitration Commission of the Conference on the Former Yugoslavia and the general rules of international law on the succession of States clearly and unequivocally stated that the

Federal Republic of Yugoslavia (Serbia and Montenegro) was not and could not be considered the sole and automatic successor to the former Socialist Federal Republic of Yugoslavia. The above-mentioned United Nations decisions and practices had influenced the decisions of other international organizations and Governments not to grant the Federal Republic of Yugoslavia (Serbia and Montenegro) the status which it illegitimately claimed.

70. The approach taken in document E/CN.4/1995/80 was thus contrary to the established rules and prevailing practices and should not in any way be interpreted as a valid precedent for supporting the unfounded claims of automatic succession to the former Socialist Federal Republic of Yugoslavia. The entity known as the Federal Republic of Yugoslavia (Serbia and Montenegro) continued not only to violate international norms and rules but also to refuse any cooperation with international missions on the grounds of their alleged lack of objectivity and preconceived beliefs against the Serbian people. In addition, it continued to submit reports and documents to international bodies of which it was not a member, including the Commission on Human Rights. Such documents should not be circulated, since they were contrary to relevant Security Council resolutions denying membership of the United Nations to the Federal Republic of Yugoslavia (Serbia and Montenegro).

71. There was only one way in which the Federal Republic of Yugoslavia (Serbia and Montenegro), as a new State, could assume responsibility for its international relations. That was by expressing its intention to be considered a party, by virtue of succession, to the multilateral treaties of the predecessor State. Once the Federal Republic of Yugoslavia (Serbia and Montenegro) ceased to circumvent the internationally accepted norms, the Republic of Croatia would take note of any such notification of succession.

72. Mr. BEBLER (Observer for Slovenia) said that, as indicated in the reports of the Secretary-General on the Status of the International Covenants on Human Rights (E/CN.4/1995/79) and on Succession of States in respect of international human rights treaties (E/CN.4/1995/80), Slovenia had duly succeeded to all human rights treaties to which its predecessor State had been a party. It had, moreover, undertaken some additional legal obligations in the field of human rights; in particular, it had acceded to the First and Second Optional Protocols of the International Covenant on Civil and Political Rights and had made the declaration under article 41 of the Covenant.

73. There was, however, a major flaw in the two reports of the Secretary-General: the annexes listing the States parties to the various instruments were inconsistent with regard to the names of States and the dates of accession. One State had been listed simply as "Yugoslavia", whereas it was clear from the dates indicated that the compilers of the lists had had in mind the former Socialist Federal Republic of Yugoslavia which, according to Security Council resolutions 777 (1992) and 821 (1993), had ceased to exist, the Federal Republic of Yugoslavia (Serbia and Montenegro) representing only one of its five successor States.

74. In preparing the annexes, the Secretariat had apparently overlooked those decisions and might have created the erroneous impression that the Socialist Federal Republic of Yugoslavia continued to exist; that one of the five successor States was the sole successor to the obligations under the treaties

and that, consequently, the State in question was under no obligation to notify its succession to the treaties. His Government had therefore asked the Secretary-General to correct the two documents (E/CN.4/1995/122) so as to remove any misleading impressions that might have arisen.

75. Monsignor TABET (Observer for the Holy See) said that millions of men, women and children were currently the victims of an international order characterized by growing imbalances between regions and countries, and even within developed countries, where the growing phenomena of exclusion and unemployment affected young people, women and families in particular. One billion people lived below the poverty line and 15 million died each year from poverty-related causes. Out of an active population of 2.8 billion, 120 million were unemployed and 700 million underemployed. The various forms of exclusion, discrimination, intolerance and racism which affected societies like a cancer robbed their victims of dignity and the social rejection they felt often led them to acts of violence and extremism.

76. It was notorious that the current unfavourable economic situation in many countries and regions of the underdeveloped world was endangering social programmes in particular. Economic reforms usually failed to take adequate account of the human factor and the most vulnerable sectors of society thus became the victims rather than the beneficiaries of such reforms. It was therefore appropriate to call into question the value of "development" projects that failed to address the priority needs of a significant sector of the population and led to situations of greater poverty in which large numbers of people were marginalized and deprived of the benefits of economic growth and technological progress.

77. The forthcoming World Summit for Social Development should help to ensure that the economy, production and trading systems, the State and the law must always be at the service of human beings and not vice versa. It would be unacceptable to attempt to humanize economic development merely by providing assistance to its possible victims. The very principles of economic policy had to be revised so that social justice and solidarity were placed at the centre of both principles and concrete actions. He noted with satisfaction that the three main themes of the World Summit were poverty, employment and social integration and hoped that the main actors in the political and economic spheres would be encouraged to find solutions that would enable people to exercise effectively their political, economic, social, cultural and moral rights.

78. The 1994 UNDP Human Development Report had introduced a new concept, that of human security, which could prove to be a very rich and useful one. It was a concept that had been mainly applied to nations but which could also be usefully applied to individuals. Each person needed to be protected from hunger, disease, all kinds of aggression, natural disasters and social and political crises. All persons must be able to feel secure not only from the risk of war but also from threats to their daily lives, their dignity and their freedom. That goal could be achieved only if people became both parties to and beneficiaries of a sustainable human development that would permit them to live their lives in a society in which their fundamental rights were respected. The right to development offered to each individual the chance

to play his or her role in society, to enjoy the fruits of the earth through a just and equitable distribution system, and to participate actively in his or her own development.

79. Mr. BIJEDIC (Observer for Bosnia and Herzegovina) said that the annex to the Secretary-General's report on the succession of States in respect of international human rights treaties (E/CN.4/1995/80), which listed the dates of receipt of instruments of accession or ratification of human rights treaties by States successor to, inter alia, the former Yugoslavia showed the dates of receipt of such instruments from the former Socialist Federal Republic of Yugoslavia as those relating to the Federal Republic of Yugoslavia (Serbia and Montenegro), listed as "Yugoslavia". The same mistake had been made in earlier United Nations documents despite the fact that, according to Security Council resolution 777 (1992), the former Socialist Federal Republic of Yugoslavia could no longer be a member of the United Nations or a party to international treaties.

80. His Government strongly objected to the claim of the Federal Republic of Yugoslavia (Serbia and Montenegro) to the personality of the former Socialist Federal Republic of Yugoslavia, since none of the States emerging therefrom had been accorded the right of automatic succession. Moreover, the Federal Republic of Yugoslavia (Serbia and Montenegro) had not applied for membership of the United Nations in spite of being enjoined to do so by General Assembly resolution 47/1. It had not, therefore, met the conditions for membership laid down in Chapters I and II of the Charter of the United Nations and was thus not a member. Moreover, it had failed to submit notification of its succession to the multilateral treaties to which the former Socialist Federal Republic of Yugoslavia was a party, a procedure duly complied with by Bosnia and Herzegovina, Croatia, Slovenia and the Former Yugoslav Republic of Macedonia.

81. If the Federal Republic of Yugoslavia (Serbia and Montenegro) continued to ignore the provisions of international law and the resolutions of United Nations bodies, its example should not be followed by the Secretariat of the United Nations, since the rights and responsibilities that derived from international treaties were thereby undermined. Existing inaccuracies in United Nations documents should be rectified by inserting the words "the former" before "Yugoslavia" in all cases where the Socialist Federal Republic of Yugoslavia was meant, unless and until the Federal Republic of Yugoslavia (Serbia and Montenegro) completed the succession procedure. A letter to that effect was being sent to the Secretary-General of the United Nations for distribution as an official document.

82. In conclusion, he said that his Government had acceded to all major human rights treaties and instruments relating to international humanitarian law despite the continued aggression and genocide being perpetrated against his country by Serb and Montenegrin forces.

83. Ms. BONNER (International League for Human Rights) said that, since the end of the cold war, the United Nations human rights treaty bodies had adopted new working methods as a result of which the discussion of major contemporary problems could be moved from the theoretical to the practical level with the

adoption of conclusions and recommendations and the convening of special sessions to hear reports by countries that had violated the provisions of human rights treaties. The Russian Federation, as a State successor to the former Union of Soviet Socialist Republics and a party to the treaties acceded to and ratified by the latter, should be required to submit such a report regarding Chechnya.

84. By way of evidence concerning violations of the human rights treaties, she would list some of the findings of a delegation of the Organization for Security and Cooperation in Europe (OSCE), which had undertaken a mission to the territory in late January 1995. There had been disproportionate use of military force in violation of the Code of Conduct adopted by OSCE at Budapest in December 1994, leading to heavy civilian and military casualties and Grozny, the capital of Chechnya and a city of half a million inhabitants, had been completely destroyed.

85. Humanitarian law had been violated by both parties to the conflict, but by the Russian side in particular. Screening camps had been set up in Mozdok, where males of all ages, from teenagers to elderly men, were held and in some cases subjected to beatings. Russians in the area had shown the OSCE mission a large number of unburied and mutilated corpses. Russian soldiers had also reportedly been buried without any attempt at identification. The mission had been denied access to refugees and to representatives of the Russian Ministry of Defence, and the Commissioner for Human Rights of the Russian Federation had not been allowed to accompany it.

86. Other reports, confirmed by many eyewitnesses - Russian and foreign journalists, Russian Members of Parliament and independent observers representing non-governmental organizations - spoke of the use of weapons of mass destruction proscribed by the Geneva Conventions in civilian areas; the bombardment of bazaars, of cars carrying refugees and of funeral processions; the bombardment of villages throughout Chechnya and even in Ingushetia, where there had been an influx of refugees; and continued heavy bombardment of Chechen towns other than Grozny.

87. The OSCE mission intended to continue its investigations of the situation in Chechnya and she trusted that the High Commissioner for Human Rights and the Commission on Human Rights would follow suit in order to put an end to human rights violations in Chechnya and provide assistance to those who had survived the war. The Russian Parliament should be asked to publish comprehensive lists of the Russian soldiers killed in the war and to try to establish the number of civilian casualties.

88. It was essential to ascertain whether proscribed weapons had been used and whether humanitarian assistance was getting through to all the parts of Chechnya not yet occupied by the Russian army. It was outrageous that foreign observers were being denied free access to the territory and in particular to refugees. The importance of immediate humanitarian assistance was underscored by reports of an impending famine in some areas owing to the exhaustion of food stores laid up during the summer months. There were reportedly villages in the foothills of the Caucasus whose food supplies would last for only another three weeks, owing to the influx of refugees.

89. She was sure that all participants in the session - member States, observer States and non-governmental organizations - would be gratified if the High Commissioner for Human Rights had the option of including in the agenda of regular and special sessions of the Commission a special discussion of extraordinary situations such as that obtaining in Chechnya, so that they could be discussed in depth rather than merely in the course of other items.

90. Mr. TEITELBAUM (American Association of Jurists), having welcomed the important statement made by the previous speaker, said that, in a speech at Davos on 26 January 1995 (United Nations press release SG/SM/95/15), the Secretary-General had rightly drawn attention to the predominant role in the world economy of transnational companies, entities beyond State control, and the dangers entailed by such economic and financial globalization in the absence of democratization at the international level. He could not, however, share the Secretary-General's optimism that such companies were not predators taking advantage of gaps in the international social order but agents of development and basic factors of social integration.

91. In his organization's view, the main social actors were associations of manual and intellectual workers and peasants, other grass-roots organizations, political parties and public representatives and such institutions as the United Nations which represented the international community of States in a relatively balanced way. The Secretary-General's approach seemed to be to institutionalize the predominant role already being played by the transnational corporations directly and through bodies controlled by the great Powers, such as the Bretton Woods institutions, the new World Trade Organization and the Security Council itself, implying that "the invisible hand of the market" was the best way of achieving economic and social progress.

92. There were signs of a similar approach elsewhere in the United Nations system. For example, the Committee on Economic, Social and Cultural Rights had noted at its session in May 1994 (E/C.12/1994/SR.1) that it had been excluded from the preparations for the World Summit for Social Development. In a statement in December 1994 (E/C.12/1994/CRP.2/Add.5), it had drawn attention to serious shortcomings in the final draft for the Summit (A/CONF.166/PC/L.21), with particular reference to its failure to mention the Covenant on Economic, Social and Cultural Rights and other treaties imposing specific economic and social obligations on their States parties.

93. The Governing Body of the International Labour Organisation had also criticized the draft documentation for the Summit as being extremely vague on the subject of follow-up, especially with regard to the various organizations of the United Nations system (GB.261/WP/WSSD/3/3). It seemed to him that those organizations were being passed over in favour of transnational corporations and the Bretton Woods institutions.

94. The globalization under way at the behest of those corporations and institutions was having catastrophic consequences throughout the world. Africa had been brought to its knees. Mexico - which had dutifully subscribed to globalization through the North American Free Trade Agreement - was in the throes of a financial, economic and social crisis that threatened to spill over to other countries and regions. In baling it out through financial

assistance, the Government of the United States had two ends in view: the prevention of economic chaos and obtaining control of Mexican oil. At the same time, the International Monetary Fund had extended an enormous loan to Mexico on terms that precluded its repayment, increasing the total indebtedness of the third world to an astronomical figure.

95. He wondered whether the peoples of the world were satisfied to have their affairs managed on the basis of a fundamentalist neoliberal theology. Even the beneficiaries of that style of management were concerned by its inherent contradictions, as witnessed by the difficult trade negotiations between the European Union and the United States to conclude the Uruguay Round. Some minimum controls were necessary to deal with the chaos created by international financial speculation and fierce economic competition among the leading industrialized countries. Hence the proposals for an economic security council - which would be controlled by the great Powers - and for the integration of the transnational corporations into the United Nations system.

96. The neoliberal philosophy was opposed by those who believed that decision-making power in society should be vested in the peoples of the world through democratic and representative national and international institutions. Accordingly, he would reiterate some of the proposals that his organization had previously made to the Commission, the three committees responsible for preparing the World Summit for Social Development and other bodies. The Economic and Social Council and the General Assembly should reassume responsibility for the direction of international economic and social affairs, a task assigned to them in the Charter of the United Nations and illegally delegated in practice to the Bretton Woods institutions. The Commission should take due account of the report of the Working Group on the Right to Development (E/CN.4/1995/27) and should urge it to continue and develop its work. Lastly, bearing in mind the contents of the report of the Secretary-General (E/CN.4/1995/25), the Commission should prepare a new 1995 resolution, developing paragraph 6 of its resolution 1994/11, with a view to convening a high-level world conference to address the problem of foreign debt.

The meeting rose at 5.40 p.m.